Rights and Responsibilities

A Guide to Labour Standards in Saskatchewan

December 2012

SASKATCHEWAN LABOUR STANDARDS

Note: This publication is not a legal document. The original Act and Regulations should be consulted for all purposes of interpretation and application of the law.

Contents

Common Questions 1
Work Schedules and Time Off Work 6
Overtime 8
Public Holidays (Statutory Holidays) 11
Annual Holidays (Vacations) 15
Benefits for Part-time Employees 18
Payroll Administration 21
Discharging and Laying-off Employees 24
Maternity, Adoption and Parental Leaves 29
Absence From Work Due to Illness and Injury 36
Leave for Military Service 39
Equal Pay 40
Permits, Licences and Variances 41
Domestic and Home Workers 44
Investigating Complaints and Enforcement 47
Index 51

Minimum Wage and Minimum Call-out Pay Schedule

Date	Minimum Wage	Minimum Call-out Pay
December 1, 2012	$10.00	$30.00
September 1, 2011	$9.50	$28.50

Common Questions

1. Does The Labour Standards Act cover all employees in Saskatchewan?

The Act applies to most employees and employers in the province. There are some groups who are not covered. These include, but are not limited to, the following:

- federally-regulated businesses and industries;
- sitters;
- family businesses; and
- the self-employed.

For more information, contact 1-800-667-1783.

Please note: If you work in another province, the rules in that province apply.

2. What is the minimum age of employment in Saskatchewan?

In Saskatchewan, the minimum age of employment is 16 years of age. Fourteen and 15 year olds can work if they have both:

- the written permission of one of their parents or guardians; and
- a *Certificate of Completion* from the *Young Worker Readiness Certificate Course*.

Fourteen and 15 year olds cannot work:

- more than 16 hours in a week in which school is in session;
- after 10:00 p.m. on a day preceding a school day; and
- before classes begin on a school day.

These restrictions apply in any week where there is a school day. Hours of work restrictions do not apply during school holidays and extended breaks from school. During holidays, 14 and 15 year olds can work the same hours as other employees.

There are minimum age restrictions under other laws such as *The Occupational Health and Safety Act* and *The Education Act*.

For more information visit: www.lrws.gov.sk.ca/minimum-age-employment.

3. What is "minimum call-out" pay?

Most employees get a minimum payment ("minimum call-out" pay) every time their employer requires them to report for work (other than for overtime). They must get minimum call-out pay even if it turns out there is no work for them that day. Minimum call-out rules do not apply to students in grade twelve or lower during the school term, janitors, caretakers, school bus drivers, and noon hour supervisors employed by a school board. If the employee does work, the employee must be paid either minimum call-out pay or the employee's regular wages for the time worked, whichever is greater. (See the chart on the inside front cover for the current minimum call-out pay rate.)

4. How often do employees have to be paid?

Employees who are not paid a monthly salary must be paid at least twice per month. Employees who get a monthly salary must be paid at least once per month. Payment is due no later than six days after the end of the pay period.

5. Do employees get meal breaks?

Yes. Most employees who work six hours or more get an unpaid meal break of at least 30 minutes within every five hours of work.

6. Must employees be paid for meal breaks?

No, but if an employee has to do some work or be at an employer's disposal during a meal break, the employee must be paid for the time.

7. Do employees have to be paid for coffee breaks?

Yes, employees must be paid for coffee breaks. However, it is up to the employer to decide if employees will get coffee breaks.

8. Must employees be told ahead of time what shifts they will be working?

Yes. Usually employees must be notified, in writing, or by a posted schedule, of the start and end times for at least one week's shifts. An employer should also say in the notification when the employees will be given meal breaks.

9. Do employees get sick pay?

No. Employers don't have to pay wages to employees who are away sick. Some employers do provide sick pay. In most cases, an employer cannot fire an employee for missing work because of illness or injury.

In some cases, employers and employees could agree to have the employee take annual holiday pay as sick pay. However, the employer cannot require the employee to do this.

10. What leaves do employees get for new children?

Pregnant employees and primary caregivers of adopted children are entitled to 18 weeks of maternity or adoption leave and 34 weeks of parental leave. The other parent of a newly born or newly adopted child can take up to 37 weeks of parental leave. Parental and maternity leave must be taken in one continuous period.

To get this leave, employees must be working and have been employed by the same employer for at least 20 of the previous 52 weeks. Employers must be given four weeks written notice, where possible, of an employee's intention to take such leave. Employees not getting wages while on adoption, parental or maternity leave may be able to get Employment Insurance benefits (obtain details from the nearest Service Canada office).

11. What is the time limit for claiming unpaid wages?

An employee must file a complaint for unpaid wages within one year.

Labour Standards can only recover wages that should have been paid to the employee during the year before the complaint was filed or during the last year the employee worked for the employer. Employees who are owed wages that should have been paid more than one year before the complaint was filed, or before the last year of employment, may be able to recover the wages in a court action. A lawyer should be consulted.

12. How long must an employee work for an employer in order to get notice of termination?

An employee must work for a continuous period of at least three months to get notice of termination.

13. What does an employee get if an employer cancels the employee's holiday?

An employer who cancels an employee's annual holiday must pay all non-refundable deposits, penalties, and other pre-paid expenses related to the holiday. The employee must provide receipts for all such expenses.

14. What does an employee get for public holiday pay?

Most employees get 1/20 of their regular wages earned in the four weeks before the public holiday. If employees work on a public holiday, they get public holiday pay and time and one-half their regular wages for each hour worked.

15. What rest does an employee get between shifts?

Employees are entitled to eight consecutive hours of rest in any 24-hour period.

16. Do employees get time off work when a family member dies?

Yes, after three continuous months of employment. If a member of the employee's "immediate family" dies, the employee can get a "bereavement leave" of up to five working days. Bereavement leave must be taken in the period from one week before the funeral to one week after the funeral. Employees do not have to be paid for the time they are on leave. Employees get bereavement leave if the employee's spouse dies, or if the parent, grandparent, child, brother or sister of the employee or employee's spouse dies.

17. Do Canadian Forces Reservists have job protection?

Yes. Saskatchewan reservists who volunteer for duty with the Canadian Forces have job security under Labour Standards. See the section on *Leave for Military Service* for more information.

18. Who pays for the uniform if employees are required to wear one?

Employers in restaurants, hotels, nursing homes, hospitals or educational institutions who require their employees to wear a uniform must provide, launder and repair the uniform at no cost to the employee. Registered nurses are exempt from this provision.

In other industries, employees are responsible for paying for them.

Please contact the Occupational Health and Safety Division at 1-800-667-5023 (Saskatoon area) or 1-800-567-7233 for information about payment for safety gear and equipment.

A uniform is special work clothing which has the name of the business or its logo on it. Clothing such as black pants or a skirt and a white shirt or blouse is not considered a uniform.

Work Schedules and Time Off Work

1. Must an employer notify employees of their hours of work?

Employers must give employees notice of when their work begins and ends over a period of at least one week. The notice should be in writing and should be posted in a place where it can easily be seen by employees. Employers must give at least one week's notice of a change in schedule.

Employers may be able to obtain authorization from the Director of Labour Standards to vary the requirement to post a work schedule or a change to the work schedule. (See *Permits, Licences and Variances* for information on how to apply for a permit.)

2. What are the rules for rest periods between shifts?

Employees are entitled to a period of eight consecutive hours of rest in any period of 24-hours. Employees must receive this break unless there is an emergency. An "emergency" is a sudden or unusual occurrence for which an employer could not have planned.

3. Are employees entitled to "days of rest"?

Employees who usually work 20 hours or more per week get 24 consecutive hours away from work every seven days (except when fighting forest or prairie fires). Employees in the retail trade get two consecutive days off every seven days. In the retail trade, the two consecutive days off do not apply to:

a) businesses with less than 10 employees; or

b) employees who work less than 20 hours per week.

Employers can apply for a permit or variance (see *Permits, Licences and Variances* for more information on how to apply for a permit).

4. Are employees entitled to "meal breaks"?

Yes. Most employees who work six hours or more get an unpaid meal break of at least 30 minutes within every five hours of work. Employees do not have to be paid for meal breaks, but if an employee has to do some work or be at an employer's disposal during a meal break, the employee must be paid for the time.

If the employer and a majority of employees agree, the Director of Labour Standards can issue a permit allowing employees to take their meal break at another time or allow the employer to not give a meal break at all. A permit is not required if a written agreement is obtained from the trade union representing the employees. If the employer does not have to give a meal break, employees must be able to eat while working once they have worked for five hours (see *Permits, Licences and Variances* for information on how to apply for a permit).

5. Do employees have to be paid for coffee breaks?

Yes, employees must be paid for coffee breaks. However, it is up to the employer to decide if employees will get coffee breaks.

6. Is there a limit to the number of hours an employee can be required to work per week?

Yes. Unless there is an emergency, employees do not have to work or be at the employer's disposal for more than 44 hours per week. An employee may agree to work the extra hours. An "emergency" is a sudden or unusual occurrence for which an employer could not have planned. If a public holiday occurs during the week, the employee does not have to work more than 36 hours. An employer cannot discipline an employee who refuses to work the extra hours. Overtime rules may apply. See the chapter on *Overtime* for more information.

7. Does an employee have to be paid for all hours worked?

An employee is entitled to be paid for each hour worked or part thereof. As well, if an employee is required to be at the disposal of the employer, the employee must be paid for those hours or part thereof.

Overtime

1. What is a "day" in Saskatchewan?

A "day" is defined as any period of 24 consecutive hours.

2. What is a work "week" in Saskatchewan?

A "week" is defined as Saturday midnight to the following Saturday midnight.

3. When is overtime payable?

Most employees who work, or are at their employer's disposal, for more than eight hours per day are entitled to overtime pay. They are also entitled to overtime rates for any hours worked in excess of 40 hours per week. For weeks in which a public holiday occurs, they are entitled to overtime rates after 32 hours of work.

For hours worked on a public holiday, refer to the *Public Holidays* section.

4. What is the overtime rate?

Overtime must be paid at the rate of 1.5 times the hourly wage rate. To calculate the hourly rate for employees paid on a monthly basis, multiply the monthly wage by 12, divide the result by 52, and then divide by the regular weekly hours worked (which cannot be more than 40).

Example:

Monthly wage rate	$2,500.00
Times 12 (yearly rate)	$30,000.00
Divided by 52 (weekly rate)	$576.92
Divided by 40 (hourly rate)	$14.42
Times 1.5 (overtime rate)	$21. 63

Note: If the regular weekly hours worked were 37.5 hours, the weekly rate ($576.92) would be divided by 37.5 to give an hourly rate of $15.38, etc.

5. Do all employees get overtime?

Overtime provisions do not apply to:

- managerial or professional employees;
- employees working for mineral exploration operations north of Township 62;
- employees in the logging industry including cooks, bull cooks and watchmen, but employees working in an office, saw mill or planing mill get overtime pay;
- certain types of traveling salespersons;
- persons employed by rural municipalities solely in connection with road construction or maintenance, or servicing of road repair or maintenance equipment that is not done in the shop;
- employees working for outfitters, fishers, or trappers; or
- come-in care providers.

Special overtime rules apply to some types of employees, including live-in care providers, live-in domestics, ambulance attendants or firefighters on a platoon system, oil truck drivers, some hog barn workers, and some city newspaper employees. Overtime rules are also modified for employers who have received an authorized *Averaging of Hours Permit* from the Director of Labour Standards allowing compressed work weeks.

Please call Labour Standards at: 1-800-667-1783 for more information about special rules and overtime exemptions.

6. What are the rules regarding "short-shifting"?

Employees are entitled to a period of eight consecutive hours of rest in any period of 24-hours. Employees must receive this break unless there is an emergency. An emergency is a sudden or unusual occurrence for which an employer could not have planned. Employees who work more than eight hours in a 24-hour period are entitled to overtime pay.

Example:

Date	Shift Starts	Shift Ends	Hours Worked
May 3	3 p.m.	11 p.m.	8
May 4	7 a.m.	3 p.m.	8

During the 24-hour period beginning 3 p.m. on May 3 and ending 3 p.m. on May 4, the employee worked 16 hours. This employee must be paid eight hours regular pay and eight hours overtime pay.

7. What is an Averaging of Hours Permit?

The *Averaging of Hours Permit* facilitates an averaging of the hours of work for employees who want to work longer shifts but over fewer days or weeks. Authorization for such permits is found in sections 7-12 of *The Labour Standards Act*. This permit does not eliminate overtime. Overtime must be paid if the hours worked by the affected employees exceed the hours stated in the permit.

Non-unionized employers must obtain a permit from the Director of Labour Standards; however, these permits do not apply to unionized workplaces (such workplaces must obtain the written agreement of their trade union). Application forms and additional information are available from the nearest Labour Standards Division office or by calling 1-800-667-1783 (toll-free), (306) 787-2438 in Regina, or from www.lrws.gov.sk.ca/labour-standards.

If you would like to view a video presentation on *Overtime*, please visit www.lrws.gov.sk.ca/labour-standards-webinars.

Public Holidays (Statutory Holidays)

There are 10 public holidays per year: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

The Director of Labour Standards may authorize that a public holiday be observed on a specified working day other than the public holiday.

1. How are employees paid in a week when a public holiday occurs?

There are three payments to consider:

a) Payment for work on a public holiday:

Employees working on a public holiday get paid time and one-half for all hours worked. This includes salaried employees and managers. The time and one-half rate is in addition to the normal day's pay calculated below in (c).

b) Overtime payable during the week of a public holiday:

Employees normally get overtime after eight hours per day and 40 hours per week. During a week (Saturday midnight to Saturday midnight) with a public holiday, they get overtime after eight hours per day and 32 hours per week. The 32 hours does not include any hours worked on the holiday.

c) Public holiday pay:

Most employees get 1/20 (.05) of their regular wages in the four weeks before a public holiday as public holiday pay no matter what their days of work. The calculation includes all wages and annual holiday pay that has been paid in the four weeks before the public holiday for holidays taken, but not overtime. A new employee is entitled to public holiday pay even if he or she has been employed for less than four weeks prior to the public holiday. The amount of public holiday pay would be 1/20 (.05) of the regular wages earned by the new employee prior to the public holiday.

Please note: The four-week public holiday pay calculation period ends on the Saturday midnight prior to the public holiday.

Example:

An employee earns regular wages of $300/week plus commission. In the four weeks before a public holiday, the employee takes one week of vacation for which the employee receives $300.00, and also earns $500.00 in commission. The calculation would be as follows:

Regular wages $300.00 x 3	= $900.00
Annual holiday pay $300.00	= $300.00
Commission	= $500.00
Total earnings	= $1,700.00

The public holiday pay would be: $1,700.00 x .05 = $85.00

In some cases, employees on a fixed salary that have the day off with pay will have received proper payment for the public holiday. If the employee gets the day off with pay, then this amount would be taken off the $85.00 calculated above. Assuming a five day week, the employee would earn a base wage of $300.00 ÷ 5 = $60.00. Taking off the $60.00 would leave a balance of $25.00 to be paid.

Hourly paid construction employees are entitled to 4.0 per cent of all gross wages (exclusive of overtime and annual holiday pay) earned each calendar year as public holiday pay. Public holiday pay must be paid by December 31 of the year in which it was earned, or within 14 days of termination.

2. Do some industries have special rules for payment for work on a public holiday?

Yes, There are special rules for employees engaged in the operation of a well drilling rig as well as for employees of commercial hog operations and those who work in restaurants, hospitals, educational institutions and nursing homes.

a) Employees engaged in the operation of a well drilling rig receive public holiday pay if they do not work on the day. If they work on the public holiday, they will receive public holiday pay plus their regular wages for the time worked on the public holiday.

b) Employees working in commercial hog operations receive public holiday pay plus time and one-half for work done on the public holiday. If the public holiday falls on a regular day of work for the employee and the employee works it, the employee can elect by written request to receive another day designated by the employer within 12 months of the public holiday. If this occurs the employee would be paid:

- regular wages for time worked on the public holiday; plus
- public holiday pay for the designated day. The payment for the designated holiday is payable in the pay period during which the designated day occurs, or within 14 days of termination, whichever comes first.

c) Where a public holiday falls on the regular day of work for full-time employees working in a hospital, educational institution, nursing home, hotel or restaurant, the employees would be paid at a rate of:

- one and one-half times their regular wages in addition to their public holiday pay; or
- one and one-half their regular wages, and in addition be granted one working day off at the employee's regular wage within a four-week period during which the public holiday occurs.

3. What if the public holiday falls on a Sunday?

Where New Year's Day, Christmas Day, or Remembrance Day fall on a Sunday, the following Monday is usually observed as a public holiday. If the employer's establishment is normally open on Sunday, the public holiday pay rules apply to that Sunday.

Canada Day is covered by federal legislation. Currently, federal law says when July I falls on a Sunday, the holiday is observed on Monday, July 2.

4. Can a public holiday be observed on a different day?

Yes. Employers can apply for a permit from the Director of Labour Standards allowing the public holiday to be observed on another day. The Director may order that the holiday be observed on another day if a majority of the employees agree. If the employees are represented by a trade union, the trade union and the employer may agree in writing to observe the public holiday on another day. In recognition of the significance of November 11 (Remembrance Day), switching that day to another day will only be granted in exceptional circumstances.

If you would like to view a video presentation on *Public Holidays*, please visit www.lrws.gov.sk.ca/labour-standards-webinars.

Annual Holidays (Vacations)

All full-time, part-time, casual, temporary and seasonal employees (including those who have not worked a full year) to whom *The Labour Standards Act* applies get annual holiday pay.

1. How do you calculate annual holiday pay?

Annual holiday pay is calculated on an employee's total wage for a given 12-month period. "Total wage" includes all salary, overtime, annual holiday pay, public holiday pay, commission, earned bonuses and any other payment for labour or personal service. The calculation is:

- during the first nine years of employment, multiply the total wage for the given 12-month period by 3/52 (approximately six per cent); and
- during year 10 and following years of employment, multiply the total wage for the given 12-month period by 4/52 (approximately 8 per cent).

Example:

An employee has worked for less than 10 years. If the given 12-month period is May 1 to April 30, and the employee takes vacation leave in August following the April 30 year-end, the calculation is:

Salary (May to April)	= $12,000.00
Commission	= $ 3,000.00
Total Wages	= $15,000.00
Annual holiday pay: $15,000.00 x 3/52	= $ 865.38

Annual holiday pay of $865.38 would be payable for the August vacation.

Employees are entitled to four weeks of annual holidays after the completion of 10 years of employment with the same employer. Their annual holiday pay would be 4/52 of the total wages they earned in the previous year.

2. Can an employee use annual holiday pay when they are away due to illness?

Annual holiday pay can be used only by mutual agreement between the employer and employee. The payment should be identified as annual holiday pay on the pay stub.

3. How many annual holidays do employees get?

a) Employees get a minimum of three weeks of annual holidays after each year of employment.

b) Employees who complete 10 years of work with the same employer get a minimum of four weeks of annual holidays.

4. When do employees get annual holiday pay?

Employees get annual holiday pay:

- during the 14 days before starting their annual holidays; or
- if the holidays are not taken, within 11 months after earning their annual holidays; or,
- within 14 days of termination.

5. Do employees get their salary and annual holiday pay while on annual holidays?

No. This would be a double payment.

6. When can annual holidays be taken?

Employees and employers should decide together when annual holidays will be taken. If no agreement is reached, the employer must give the employee at least four weeks written notice of his or her annual holidays. An employee is entitled to take all of his or her annual holidays in one continuous period, unless he or she requests shorter periods.

7. What happens if an employee does not ask for an annual holiday?

Employers can require employees to take annual holidays if the employer gives the employee four weeks written notice. An employer and employee can file an agreement not to take annual holidays with the Director of Labour Standards. The employee must get holiday pay before the end of the year even if holidays are not taken.

8. How do public holidays affect annual holidays?

If there is a public holiday during an employee's annual holiday, the annual holiday is extended by one day. Most employees should get a normal day's pay for the public holiday. For more detailed information on public holidays, please refer to *Public Holidays*.

9. What happens if the employer cancels an employee's annual holiday?

An employer who cancels an employee's annual holiday must pay all non-refundable deposits, penalties, and other pre-paid expenses related to the holiday. The employee must provide receipts for all such expenses.

If you would like to view a video presentation on *Annual Holidays*, please visit www.lrws.gov.sk.ca/labour-standards-webinars.

Benefits for Part-time Employees

Part-time employees working for a business with the equivalent of 10 full-time employees can participate in the benefits offered to the full-time employees.

1. ***Which employers have to offer the same benefits to part-time employees as they offer to their full-time employees?***

   A business with 10 or more full-time equivalent employees must provide benefits to eligible part-time employees. (See question #9 for the level of benefits part-time employees receive.)

2. ***What is a full-time employee?***

   A full-time employee, for this part of *The Labour Standards Act*, is any employee who works 30 hours or more per week.

3. ***What benefits may a part-time employee be eligible for?***

   Eligible benefits include dental plans, group life, accidental death or dismemberment plans, and prescription drug plans.

4. ***How does an employee qualify for part-time benefits?***

   To qualify, part-time employees must have been employed for 26 consecutive weeks and have worked 390 hours in those 26 weeks.

5. ***How many hours do employees have to work to keep their eligibility?***

   To maintain eligibility, an employee must work at least 780 hours in a calendar year. Employees on maternity, adoption, or parental leave maintain their eligibility if they would have worked 780 hours had such leave not been taken.

6. ***Are student employees eligible for part-time benefits?***

   Full-time students are not eligible for coverage. This includes students enrolled in 60 per cent of a full course load at a school, university, technical institute, regional college or private vocational school.

7. What happens if an employee previously eligible for coverage falls below the hour requirement for maintaining coverage?

When an employer becomes aware that an employee will lose eligibility, the employer must advise the employee, in writing, of the loss of eligibility.

8. When is a part-time employee eligible to receive benefits?

Part-time employees must be offered coverage under the four plans (see #3) when:

- they have been continuously employed for 26 weeks and have worked 390 hours in that period;
- after the qualifying period, they work at least 780 hours in each calendar year;
- full-time employees who work in comparable positions receive some or all of the four benefit plans (i.e. part-time managerial employees are compared to full-time managerial employees; part-time non-management workers are compared to full-time non-management workers); and
- they are not full-time students.

9. What level of benefits do part-time employees receive?

Part-time employees who work between 15 and 30 hours a week get 50 per cent of the benefits provided to comparable full-time employees. Part-time employees who work 30 or more hours in a week get 100 per cent of the benefits provided to comparable full-time employees.

If plan benefits are determined by a formula based on annual earnings, the same formula is to be applied to part-time workers (e.g. group life insurance formula of two times annual income).

Benefit levels required to be offered to part-time employees for dental and drug plans are "basic plans". Except for drug plans, an employer can provide plans to part-time employees based on employee only coverage, without coverage for spouses and dependents.

10. If a benefit requires contributions by employees, how are contributions for part-time employees determined?

The contributions must be paid in the same way as the payments from full-time employees, and be proportional to the level of benefits received.

11. What happens when the employees of one employer are in more than one bargaining unit and the employees in the different bargaining units get different benefits?

Part-time employees should receive the same benefits as the full-time employees in the same bargaining unit.

Payroll Administration

Employees not paid on a monthly salary must be paid at least twice per month. Payment is due no later than six days after the end of the pay period.

1. When must an employee be paid after termination?

Employees must be paid in full within 14 days after their last day of work.

2. What must accompany each payment?

A statement of earnings must be provided showing:

- the name of the employer and employee;
- the period for which payment is made;
- regular and overtime hours worked;
- rate of pay;
- public and annual holiday pay as required;
- an itemized list of any deductions made from wages;
- total earnings; and
- the actual payment made.

The statement of earnings must be separate from the wage cheque.

3. What can be deducted from wages?

Only deductions required by law (e.g. Income Tax, Canada Pension Plan [CPP], Employment Insurance [EI]) or voluntary employee purchases from the employer may be taken from wages. Items such as cash shortages and broken or damaged goods cannot be deducted unless the employer obtains a court judgement.

4. Does the statement of earnings have to show the amount of annual and public holiday pay being paid?

Yes, if the holiday pay is paid along with the employee's regular wages on each paycheque the amounts paid as public and annual holiday pay must be identified separately from the regular wages. If this is not done, the annual holiday pay and public holiday pay is considered not to have been paid, unless the employee is given a written statement at least once every 13 weeks showing the amount of annual and public holiday pay paid during each pay period.

5. What payroll records must an employer keep?

All employers must keep payroll records for each employee, including:

- name and address;
- brief job description;
- start and end dates of employment;
- hours at which work begins and ends each day;
- times for breaks;
- total number of hours worked each day and each week;
- regular rate of wages;
- total wages paid;
- dates on which each holiday is taken;
- total wage and annual holiday pay for any period of employment; and
- all deductions from wages and the reason for each deduction.

6. When an employee works out of his or her home, what additional records must be kept?

An employer must keep records showing the address where the work is performed and identifying the portion of the work done at home.

7. How long should payroll records be kept?

Payroll records must be kept for five years after an employee leaves a job.

All questions about the *Record of Employment* (separation slip) should be directed to the nearest Service Canada Office at 1-800-206-7218 (employees) or 1-800-367-5693 (employers) or visit www.servicecanada.gc.ca.

All questions about Income Tax, T-4 slips, EI and CPP contributions should be directed to the nearest Canada Revenue Agency office. Phone 1-800-959-8281 (individuals); or 1-800-959-5525 (businesses); or visit www.cra.gc.ca.

If you would like to view a video presentation on Pay, Deductions and Records, please visit www.lrws.gov.sk.ca/labour-standards-webinars.

Discharging and Laying-off Employees

There are rules under *The Labour Standards Act* that employers must follow when an employee is laid-off or discharged (terminated). There are additional rules that an employer must follow if there is a group termination. A group termination occurs when an employer terminates 10 or more employees at one place of employment within a four-week period.

When an employee is terminated, the employer must, within 14 days, pay:

- all wages owing;
- all holiday pay owing; and,
- any pay in lieu of notice (if required).

A. Individual Termination

1. What is a lay-off? What is a discharge?

A lay-off means the temporary termination of an employee for a period longer than six scheduled working days. A discharge means a dismissal (firing) or a forced resignation.

2. What does an employer have to do before an employee is discharged or laid-off?

Employees who have worked for the employer for at least three months must be given written notice or pay in lieu of notice before they can be discharged or laid-off. The amount of notice depends on how long the employee has been working. An employer can let an employee go without advance notice or pay in lieu of notice if the employer has "just cause" for terminating the employee. (See question #6 for the meaning of 'just cause'.)

3. What is the minimum notice required for discharge or lay-off?

The minimum notice depends on an employee's length of service.

Length of Service	Minimum Notice	Length of Service	Minimum Notice
0 - 3 months	0 weeks	3 - 5 years	4 weeks
3 months - 1 year	1 week	5 - 10 years	6 weeks
1 - 3 years	2 weeks	10 years and over	8 weeks

During the notice period, the employee's pay rate and normal hours of work cannot be cut.

These periods of notice are the minimum periods of notice required. Employers should be aware that employees, especially long term employees, might be entitled to additional notice under The Common Law. Employers and employees should consult their lawyers.

4. What is "pay in lieu" of notice?

An employer must give written notice to an employee before a lay-off or a discharge occurs, unless the employer has just cause to dismiss the employee. If this notice is not given, pay in lieu of notice is required. "Pay in lieu of notice" means payment of the employee's normal wages for the minimum notice period (see #3). If wages vary from week to week, a normal week's wages is the average wage for the last four weeks of work, not including overtime.

5. Can annual holidays be part of the notice period?

No. Annual holidays (including holidays scheduled before notice of termination is given) do not form any part of the notice period and annual holiday pay cannot be used as pay in lieu of notice.

6. What is just cause for dismissal?

Just cause for dismissal is not defined in *The Labour Standards Act*. Over the years, the courts have handed down numerous decisions on the issue. Generally, courts have ruled that just cause may exist if the employee is guilty of serious misconduct, such as theft.

The facts and circumstances surrounding the misconduct must be examined carefully. Each case is different. The employee's position and length of service is to be considered.

Personality conflicts, general dissatisfaction with performance, petty issues, or one incident of inappropriate behavior or misconduct, are usually not serious enough to warrant dismissal for just cause. In these instances, corrective action may be more appropriate.

The employer should encourage improvement by identifying reasonable performance standards, conducting performance reviews over a reasonable period of time, and warning the employee of the consequences for failing to meet the required standards.

Employers who condone or ignore misconduct may be prevented from claiming that the dismissal was for just cause. If just cause exists, notice or pay in lieu of notice is not required. For further information, contact your lawyer.

7. Can an employer terminate sick or injured employees?

See *Absence from Work Due to Illness and Injury*.

8. How does the Saskatchewan Human Rights Code protect employees from termination?

The Saskatchewan Human Rights Code prohibits employers from terminating employees on the basis of race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin, or receipt of welfare. For more information, contact the Saskatchewan Human Rights Commission.

If you would like to view a video presentation on *Lay-offs and Discharges*, please visit www.lrws.gov.sk.ca/labour-standards-webinars.

B. Group Termination

A group termination occurs when an employer terminates 10 or more employees at one place of employment within a four week period. "Termination" includes a lay-off with no recall date or a lay-off of 26 weeks or more. The employer must give notice of group termination.

1. What is the minimum notice required for group terminations?

The minimum notice for a group termination is:

- 10 to 49 employees . . . . . 4 weeks
- 50 to 99 employees . . . . . 8 weeks
- 100 or more employees. . . . . .12 weeks

2. Do all group terminations require notice?

No. An employer is not required to give notice of group termination where the employees:

- work on an "on call" basis;
- are employed for a definite period (e.g. eight weeks);
- are employed for a project to be completed in a 12-month period;
- are offered and refuse reasonable alternate work;
- are employed on a seasonal basis;
- are laid off for a period less than 26 weeks; or
- are unable to work because of an unpredicatable disaster.

3. To whom does the employer provide written notice of group termination?

An employer must provide written notice to:

- the Minister;
- each employee whose employment will be terminated; and
- any trade union representing the affected employees.

When notice of group termination would harm the operations of the business, the employer may apply to the Director of Labour Standards to dispense with notice to the employees, the trade union, and the Minister.

4. What information must be in a written notice of group termination?

The written notice must indicate:

- the number of employees who will be terminated;
- the effective date or dates of their terminations; and
- the reason(s) for the terminations.

5. Does notice of group termination affect individual notice of termination?

No. Individual notice of termination is required whether or not the termination is part of a group termination. Employees affected by a group termination must also get individual notice.

The employer can give notice of individual and group termination in the same document and at the same time, provided the notice given meets the time required for both individual and group terminations.

Maternity, Adoption and Parental Leaves

Parents of new children can get maternity, adoption or parental leave. Pregnant women can get 18 weeks of unpaid maternity leave and the primary caregiver of an adopted child can get 18 weeks of unpaid adoption leave. The parent taking maternity or adoption leave can also take up to 34 weeks of parental leave. Parental leave and maternity leave must be taken in one continuous period. The parent who does not take maternity or adoption leave can take up to 37 weeks of unpaid parental leave. Parents returning from maternity, parental or adoption leave must be re-employed in the same or a comparable job.

1. ***Who gets maternity, adoption or parental leave?***

   Full or part-time employees who are currently employed, and have been employed for at least 20 weeks in the 52 weeks before the day the leave is to begin, can get maternity, adoption or parental leave.

   Only the primary caregiver of an adopted child can get adoption leave. It is up to the parents to identify the primary caregiver.

2. ***How much notice must an employee give to an employer before taking maternity, adoption or parental leave?***

   Maternity Leave: An employee must give her employer written notice four weeks before the day her leave begins. The notice must include the day she plans to begin the leave and a medical certificate with the estimated date of birth. The estimated date of return to work should be included in the notice.

   Adoption Leave: An employee must give the employer written notice four weeks before the day the child comes into his or her care. If the employee is unable to give proper notice, whatever notice is given by Social Services, the adoption agency, or the birth parents, must also be given to the employer. The estimated day of returning to work should also be included in this notice.

   Parental Leave: An employee must give the employer written notice four weeks before the leave begins. The notice must include the day he or she plans to begin the leave. If the employee is on maternity or adoption leave and is requesting parental leave, the written application must be submitted at least four weeks before the employee was to return to work. The new estimated date of return to work should be included in this notice.

3. Do employees on maternity, adoption or parental leave get wages?

No, but employees may get Employment Insurance benefits (obtain details from the nearest Service Canada office). See question #10 for information about sick leave or disability benefits for pregnant employees.

4. Can employees on maternity, adoption and parental leave continue participating in company benefit plans?

Yes. Employees on maternity, adoption and parental leave can continue participating in certain company benefit plans. An employer may require the employee to pay the contributions required to maintain the benefits.

Benefit plans that an employee can continue participating in while on leave include medical, dental, disability or life insurance, accidental death or dismemberment, registered retirement savings plan, and other pension plans.

5. Must the employee give notice to the employer before returning to work at the end of the maternity, adoption or parental leave?

Yes. An employee must notify the employer at least four weeks before the day the employee plans to return to work. An employer is not required to allow an employee to return until this notice is received.

6. Can an employee's pay be cut after maternity, adoption or parental leave?

No. An employee gets at least the same rate of pay with no loss of pension or similar benefits. Seniority continues to increase at the normal rate while an employee is on leave.

7. How does maternity, adoption or parental leave affect annual holidays?

Maternity, adoption and parental leave does not affect annual holidays. After returning from the leave, an employee gets the same annual holidays the employee would have received if the leave had not been taken. Annual holiday pay may be lower since it is a percentage of the previous year's earnings.

8. Must a woman be given modified duties if her pregnancy would unreasonably interfere with the performance of her job?

Yes. Where a woman's duties are modified, there can be no cut in wages or benefits. If there is no opportunity to assign modified duties, the woman may be required to commence maternity leave up to 13 weeks before the estimated date of birth.

9. What happens if an employee gets sick because of her pregnancy and has to leave work before her maternity leave is supposed to start?

If a pregnant employee can provide a medical certificate saying she must stop work for medical reasons, she may leave work immediately. She is not required to start her maternity leave at this time and can delay the start of her 18 week maternity leave up to the estimated date of birth. (See question #10 for information about sick leave or disability benefits for pregnant employees.)

10. Do pregnant employees get sick leave or disability benefits?

Yes, if the employer provides these benefits to other employees. Employers who provide sick leave benefits and/or disability benefits to employees must make sure that pregnant employees get these benefits when they are unable to work because of illness or injury, including pregnancy and pregnancy related illness. Employees must also get these benefits for the period of time after the birth of the child during which the employee is unable to work for reasons related to the birth of the child. An employer may request an employee to provide a medical certificate as evidence of her inability to work. Further information can be obtained from the Saskatchewan Human Rights Commission.

Sick benefits may also be available through Employment Insurance (call the nearest Service Canada Office).

11. When can maternity, adoption or parental leave be taken?

Maternity Leave: Maternity leave can start at any time during the 12 weeks before the estimated date of birth. If the employee did not give the employer four weeks notice before starting her leave, the 14 week leave can start at any time during the eight weeks before the estimated date of birth.

Adoption Leave: Adoption leave starts on the day the child becomes available for adoption.

Parental Leave: Unless parental leave is being taken with maternity leave, the leave can be taken any time between 12 weeks before the estimated date of birth or the day the child will come into the employee's care and 52 weeks after the date the child was actually born or came into the employee's care.

12. Can maternity leave exceed 18 weeks?

Yes. Maternity leave can be extended six weeks (for a total of 24 weeks) if there is a medical reason for not returning to work. A medical certificate is needed for this extension. Employers and employees can agree to a longer leave. To prevent misunderstanding, such agreements should be in writing.

13. What happens if a birth is delayed?

Women get at least six weeks of leave after the date of birth, even if this causes the total maternity leave taken to be more than 18 weeks.

14. Can an employee be fired because she is pregnant?

No. The law says "no employer shall dismiss, lay-off, suspend or otherwise discriminate against" an employee because she:

- is pregnant;
- temporarily disabled because of pregnancy; or,
- has applied for maternity leave.

Quick Reference Chart: Leaves of Absence for Parents			
Leave Type	***Maternity***	***Adoption***	***Parental***
Who qualifies	Full-time or part-time employees who are currently working and have worked for the same employer for at least 20 weeks in the 52 week period before the leave is to start.	Full-time or part-time eployees who are currently working and have worked for the same employer for at least 20 weeks in the 52 week period before the leave is to start.	Full-time or part-time employees who are currently working and have worked for the same employer for at least 20 weeks in the 52 week period before the leave is to start.
Length of leave	18 unpaid weeks. For information about collecting employment insurance while on these leaves, contact Service Canada at 1-800-206-7215 (employees) or 1-800-367-5693 (employers) or visit www.servicecanada.gc.ca.	18 unpaid weeks. For information about collecting employment insurance while on these leaves, contact Service Canada at 1-800-206-7215 (employees) or 1-800-367-5693 (employers) or visit www.servicecanada.gc.ca.	34 unpaid weeks; 37 weeks for the parent who did not take maternity or adoption leave. For information about collecting employment insurance while on these leaves, contact Service Canada at 1-800-206-7215 (employees) or 1-800-367-5693 (employers) or visit www.servicecanada.gc.ca.
Employee	Birth Parent.	Either parent, whoever is designated as the primary caregiver.	Either or both parties.

Quick Reference Chart: Leaves of Absence for Parents			
Leave Type	***Maternity***	***Adoption***	***Parental***
Timing	Can start any time in the 12 weeks prior to the estimated date of birth.	Adoption leave starts at least on the day the child is available for adoption.	If parental leave is not taken with maternity leave, it must be taken between the period 12 weeks before the estimated date on which the child will come into the employee's care and 52 weeks after the actual date the child was born or the adopted child came into the employee's care.
Notice of Leave	Four weeks written notice before the leave is to begin. The notice must identify the date the leave is to begin and include a medical certificate with estimated date of birth. The notice should include an estimated date of return to work.	Four weeks written notice if possible. If not, notice must be whatever is given by the Ministry of Social Services or the adoption agency or birth parents. The notice should include an estimated date of return to work.	If taken after maternity leave or adoption leave, four weeks written notice before the end of the maternity or adoption leave. If taken separately, the notice should be given four weeks before the leave is to begin.
Return to Work	Four weeks notice before the employee returns to work.	Four weeks notice before the employee returns to work.	Four weeks notice before the employee returns to work.

Quick Reference Chart: Leaves of Absence for Parents			
Leave Type	***Maternity***	***Adoption***	***Parental***
Return to the same job or to a comparable job	Employee to return to the same job or a comparable job. The employee must receive at least the same wages or benefits as before the leave. Seniority and the right of recall continue to accrue while the employee is on leave.	Employee to return to the same job or a comparable job. The employee must receive at least the same wages or benefits as before the leave. Seniority and the right of recall continue to accrue while the employee is on leave.	Employee to return to the same job or a comparable job. The employee must receive at least the same wages or benefits as before the leave. Seniority and the right of recall continue to accrue while the employee is on leave.
Protection	Employer shall not dismiss, layoff, suspend or otherwise discriminate against an employee because she is pregnant; is temporarily disabled because of pregnancy; or has applied for maternity leave. This is a job protected leave even during the first three-month probationary period.	Employers may not discharge or discipline employees who take adoption leave.	Employers may not discharge or discipline employees who take parental leave.

Absence From Work Due to Illness and Injury

The Labour Standards Act provides job protection to employees who are absent from work due to illness or injury or are absent due to the illness or injury of a family member if certain conditions are met.

1. ***Can an employer dismiss an employee for missing work because the employee is ill or injured?***

   Employers may not discharge or discipline employees who have worked for them for at least 13 continuous weeks because of absence due to the illness or injury of the employee:

   - if the absence is due to serious illness or injury, and does not exceed 12 weeks in a period of 52 weeks;
   - if the employee is injured and receiving benefits under *The Workers' Compensation Act*, and the absence does not exceed 26 weeks; or
   - in situations where absences do not exceed 12 days in a year.

   The Labour Standards Act does not require employers to pay employees who are away sick. However, employers and employees may agree to paid sick leave.

2. ***Can an employer dismiss an employee for missing work because a family member is ill or injured?***

   Employers may not dismiss or discipline an employee for being absent from work if during the period of absence the employee is receiving or is in the waiting period to receive benefits under section 23.1 of the federal *Employment Insurance Act* (compassionate care benefits). As long as the employee qualifies for the federal compassionate care benefit, the employee is entitled to job protection for the period he or she is absent from work while receiving benefits or are in the waiting period for benefits even if that employee has not been employed for 13 consecutive weeks prior to the leave. This is providing the total weeks of leave does not exceed 16 weeks in any 52 week period.
   (See question #3.)

Employees who do not receive compassionate care benefits may also be entitled to job protection while they are absent from work due to the serious illness or injury of a member of the employee's immediate family who is dependent on the employee.

In this case the employee cannot be dismissed or disciplined for being absent if:

- the employee has been employed by the current employer for 13 consecutive weeks;
- the employee is absent in order to provide care and support to the ill or injured family member; and,
- the absence does not exceed 12 weeks in a 52 week period.

If the illness or injury is not serious the employee is entitled to job protection if the absence does not exceed 12 days in a calendar year. An employer may request that the employee provide a doctor's certificate certifying that the family member was ill or injured.

An "immediate family" member is the employee's spouse or the parent, grandparent, child, brother or sister of the employee or the employee's spouse.

"Spouse" means a person with whom an employee has lived continuously as a spouse for two years or in a relationship of some permanence if they are parents of a child.

3. If an employee misses work because he or she is ill or injured and also misses work for a period of time while receiving Employment Insurance compassionate care benefits, how many weeks of job protected leave is the employee entitled to?

The total combined period of leave an employee is entitled to is 16 weeks in a 52-week period. This means that if an employee receives compassionate care benefits while absent from work and within the same 52-week period misses work due to the employee's illness or injury (or the illness or injury of a family member for which compassionate care benefits are not paid), the total amount of job protected leave the employee is entitled to for all of these absences is 16 weeks.

Employers and employees may agree to a longer period of leave. In addition, employers and employees may have additional rights and responsibilities under *The Saskatchewan Human Rights Code*.

4. How can an employee apply for compassionate care benefits?

Information about applying for compassionate care benefits can be obtained from your nearest Service Canada office or on the website: www.servicecanada.gc.ca.

Leave for Military Service

Saskatchewan reservists who volunteer for duty with the Canadian Forces, and as a result are required to be absent from work, are entitled to an unpaid leave of absence for the period of their service.

Reservists must give their employer notice to qualify for an unpaid leave of absence and to be able to return to work at the end of a leave. The employer can ask the employee for a certificate from the Canadian Forces certifying that the employee is a reservist and is required for service. If possible, the certificate should state how long the leave is likely to last.

Three types of notices are involved:

a) *Training*: For training, reservists must give their employer at least six weeks notice before they intend to begin the unpaid leave of absence. Before leaving, reservists must also inform their employer when they expect to return to work.

b) *Deployment*: For deployment (including deployment overseas) reservists must give their employer at least six weeks notice before they intend to begin the unpaid leave of absence. Reservists must give their employer at least six weeks notice before they intend to return to work.

c) *Emergency deployment*: If there is an emergency deployment (that is to say, to deal with fires, floods, ice storms, civil unrest in Canada, etc.) reservists must give the employer a notice that is reasonable under the circumstances before taking leave and before returning to work.

After returning from a leave, the employer must allow the employee to continue employment without any loss of privilege connected with seniority, including vacation leave entitlements.

Equal Pay

Male and female employees are entitled to equal pay when they perform similar work:

- in the same establishment;
- under similar working conditions; and
- requiring similar skill, effort and responsibility.

"Similar" means "resembling in many respects" or "alike", although not necessarily identical. Exceptions can be made where payment is based on a seniority or merit system.

1. What makes work "similar"?

a) Skill: The intellectual and physical abilities needed to do the work.

b) Effort: The quality and quantity of mental and/or physical activity needed to do the work. Doing different tasks occasionally should not make a difference in the rates of pay between male and female employees if they usually do similar jobs.

c) Responsibility: The importance of the assigned duties, with emphasis on things like work performed, supervision of employees, accountability for equipment, and safety.

d) Working Conditions: The conditions under which the employees do their work. This may include noise and other physical or psychological factors in the work place.

2. When can pay rates differ?

Different pay rates are allowed when based on:

a) Seniority: A wage system that applies to all employees and provides pay raises based on the length of service with the employer.

b) Merit: Wage increases based on documented performance ratings or quantity produced. All employees should be told there is such a system for determining their wages.

c) Trainee Programs: If such programs are equally available to males and females, and lead to their career advancement when completed.

Permits, Licences and Variances

The Labour Standards Act and Regulations set out the minimum employment standards in the workplace. Since the rules cannot be made to fit every circumstance, variations from the rules are allowed, provided the appropriate permission is obtained.

Employers must apply to the Director of Labour Standards for permission to deviate from the rules, or obtain the written agreement of the trade union representing the affected employees.

The following permits are available under *The Labour Standards Act and Regulations*:

a) Averaging of Hours Permit (sections 7 and 9). This permit allows an employer to average the hours of work of an employee or group of employees work over a period of weeks, rather than be limited to eight hours per day or 40 hours per week.

b) Authorization to vary the rule that employees who work more than 20 hours per week get one day off per week (subsection 13(4)).

c) Authorization to vary the rule that employees working more than 20 hours in a retail business with 10 or more employees get two consecutive days off per week (subsection 13(4)).

d) Authorization to vary the requirement to post a work schedule or a change to the work schedule (section 13.1).

e) Authorization to vary the requirement for a meal break (section 13.3).

f) Authorization to allow a holiday (vacation) shutdown for less than three consecutive weeks (section 31).

g) Authorization to move a public holiday to another day (section 40).

h) Authorization to vary the youth employment rules (regulation 9.5).

i) Variation to the requirement for the employer to provide 4 weeks' notice of annual holiday commencement where there is an agreement with the union or for non-union environments where there is agreement between the employer and employee (section 32).

j) Authorization to permit the payment of wages during a strike on a day other than the day on which they would usually be paid. Application for this authorization is by a letter of request to the Director of Labour Standards (section 52).

k) Authorization to waive the requirement to provide notice of group termination. Application for this authorization is by a letter of request to the Director of Labour Standards (regulation 22).

l) Approval of living accommodation. Application for this authorization is by a letter of request to the Director of Labour Standards (regulation 33).

1. How can an employer obtain one of the listed permits or authorizations?

An employer can request an application form from the Labour Standards Division. The form should be completed and returned to the Labour Standards Division for approval. If approved, the authorization will be returned to the employer.

The permit must be posted in a location that is accessible to the affected employees. Newly hired employees should be informed of the permit if it will apply to them.

2. Does the Director of Labour Standards need proof of employee support before authorizing a permit?

Before an authorization is granted, most permits require approval of the majority of employees affected. The employees must show their approval by signing the application form. In certain instances, a secret ballot can be arranged. Once a majority of employees agree to the permit, the permit may be issued for a specific number of employees and will only apply to those employees in the classifications affected.

3. Can a permit be revoked?

Any authorizations or permits that are issued can be cancelled at any time by the Director of Labour Standards. Should this occur, the employer will be notified in writing.

4. Can employees request that a permit be withdrawn?

Employees may request that the permit be withdrawn or cancelled. This request must be in writing and should outline the reason for the request. An investigation will be conducted to determine if the permit should be revoked. If the permit is to be revoked, the employer will be notified in writing.

5. Are there special rules if the employees are covered by a union agreement?

For authorizations (a), (c), (d), and (g), employers and the trade union representing the affected employees can agree to the variation without getting approval from the Director of Labour Standards.

Note: such agreements are still subject to the specific terms and conditions of the Act. For further information consult the Act or call the nearest Labour Standards Division office.

6. How long is the permit in effect?

The time limits will be stated on the permit.

Domestic and Home Workers

Home Workers

Any employee who works out of their own home for someone else is a home worker. The employee may do work such as sewing, taking orders for goods or services over the phone, or office work via computer links. Home workers are entitled to all the rights and benefits of *The Labour Standards Act* including leaves, notice of work schedules, meal breaks, notice of termination and so on.

Employers of home workers must keep the same payroll information as any other employer. As well, home workers must be provided with pay stubs. See *Payroll Administration* in this booklet for more information. For information on EI, CPP and Income Tax deductions, contact the Canada Revenue Agency.

Self-employed people who use their home as a base of operations are not covered by *The Labour Standards Act*.

Care Providers, Domestics and Sitters

The Labour Standards Regulations define three categories of "household" workers:

a) A *care provider* is someone hired for the care and supervision of an immediate family member in either the home of the employer or the home of the family member requiring care.

b) A *domestic worker* is someone hired to perform work in the private residence of the employer related to the management and operation of the household (i.e. cleaning, washing and gardening). This does not include the supervision and care of an immediate family member.

c) A *sitter* is the traditional "babysitter" who comes in on an occasional, short term basis to allow parents time to go shopping, to the movies, etc. It also refers to a worker who relieves a proprietor of an "approved home" for a period of not more than 21 days in a year.

   An "approved home" means an approved home under *The Mental Health Services Act and Regulations* or a private-service home licenced under *The Residential Services Act and Regulations*.

1. What are the rules for care providers?

Come-in care providers (that is, care providers who do not live in the home of the employer) are exempt from the minimum wage, overtime, and the requirement to provide notice of termination or pay in lieu of notice. All other labour standards provisions apply.

For live-in care providers the hourly rate during the first eight hours is always at least the minimum wage. The hourly rate for any hours in excess of eight can be negotiated without reference to the minimum wage. Live-in care providers must also receive two consecutive days off per week. Other special provisions include a maximum deduction of $250.00 per month for room and board. Except for these special rules, all other *Labour Standard Act* provisions, including overtime, apply.

2. What are the rules for domestic workers?

Come-in domestics are covered by the entire *Labour Standards Act.*

For live-in domestics, the hourly rate during the first eight hours is always at least the minimum wage. The hourly rate for any hours in excess of eight can be negotiated without reference to the minimum wage. Live-in domestics must also receive two consecutive days off per week. Other special provisions include a maximum deduction of $250.00 per month for room and board. Except for these special rules, all other *Labour Standards Act* provisions, including overtime, apply.

3. What are the rules for sitters?

Sitters are exempted entirely from *The Labour Standards Act*.

4. Do the rules apply if I hire family members?

If an "immediate family" member is the only care provider or domestic, then *The Labour Standards Act* does not apply. Immediate family means: parent, grandparent, child, brother, or sister of either the employer or the spouse of the employer. "Spouse" means a person with whom an employee has lived continuously as a spouse for two years or in a relationship of some permanence if they are parents of a child.

5. If I take my child out to be cared for in someone else's home, do labour standards apply?

If a parent takes a child to the house of the caregiver, that caregiver is viewed as an independent agent and *The Labour Standards Act* does not apply.

6. Do I have to keep records if I hire a care provider or domestic?

Yes. Employers have to maintain payroll records that include: hours worked each day, the time when work begins and ends, the wages paid, the dates annual holidays are taken and annual holiday pay, the details of the employment contract (including the hourly rate), and the deductions made from the employee's wages. See *Payroll Administration* in this booklet for more information.

7. Do I have to provide pay stubs and make Income Tax deductions?

Pay stubs must be provided to all employees including domestics and care providers. For information on EI, CPP and Income Tax deductions, contact the Canada Revenue Agency.

Quick Reference to Labour Standards Coverage						
Type of Worker	Minimum Wage	Overtime	Annual Holiday Pay	Public Holiday Pay	Unpaid Maternity Leave	Notice of Termination
Come-in Care Provider	No	None, unless negotiated	Yes	Yes	Yes	No
Live-in Care Provider	Yes, first 8 hours/ day***	Yes ***	Yes	Yes	Yes	Yes
Come-in Domestic	Yes	Yes	Yes	Yes	Yes	Yes
Live-in Domestic	Yes, first 8 hours/ day***	Yes ***	Yes	Yes	Yes	Yes
Sitter	Does not apply					

*** Please see question 1 in the *Domestic and Home Workers* section.

Please note: come-in and live-in care providers and live-in domestics must negotiate pay for any additional hours worked over 8 hours.

Investigating Complaints and Enforcement

1. What can employees and employers do if they have a workplace concern?

If the concern is about wages; including overtime, public holiday (statutory) pay, annual vacation pay, dismissal, or if you are not sure where your complaint "fits," call Labour Standards toll free at 1-800-667-1783.

2. What is the time limit for claiming unpaid wages?

An employee must file a complaint for unpaid wages within one year.

Labour Standards can only recover wages that should have been paid to the employee during the year before the complaint was filed or during the last year the employee worked for the employer. Employees who are owed wages that should have been paid more than one year before the complaint was filed, or before the last year of employment, may be able to recover the wages in a court action. A lawyer should be consulted.

3. How does an employee make a Labour Standards complaint?

The employee must fill out a complaint report form. Forms can be obtained by writing, phoning or visiting any of the Labour Standards Division offices listed at the back of this booklet. Employees who need help filling out the form can visit or call the nearest Labour Standards Division office. The form should be completed in full with as much information as possible to assist the Labour Standards Officer investigating the complaint. To fill out the form the employee will need the following information:

- the employer's name, address, telephone number, postal code and the name of the employee's supervisor;
- the employee's address, postal code, phone number, social insurance number;
- the date the employee started work and the date the employee ended work (if no longer employed);

- the employee's wage rate, regular hours of work per day and per week;
- if available, a pay cheque stub or a statement of earnings if pay is direct deposited into the employee's account; and
- details about the claim, for example the dates for which wages are being claimed and the amounts.

4. What happens after Labour Standards receives a complaint?

A Labour Standards Officer reviews the complaint form and may call the employee for more information. The officer will also contact the employer and may inspect the employer's payroll records, talk with other employees and gather other evidence. Please refer to *Payroll Administration* for more information on the records the employer is required to keep.

5. What can the Labour Standards Division do if wages are found owing?

If the officer finds that wages are owed to the employee, the officer will let the employer know and will try to get payment from the employer. If an employer offers to settle a claim by paying less than what the officer asked for, the officer will tell the employee. The employee then has to decide whether to accept the amount offered. If the complaint is not resolved, the Director of Labour Standards may issue a document called a "Wage Assessment."

6. What is a "Wage Assessment"?

A Wage Assessment is a legal document issued by the Director of Labour Standards. It sets out the amount of wages the Director believes are owed to the employee. The Wage Assessment can be issued against the employer, the corporate directors, or both.

7. Can a Wage Assessment be appealed?

Yes. Wage assessments can be appealed by both employers and employees if they disagree with the amount of wages.

8. How do you appeal a Wage Assessment?

A letter indicating that either the employer or the employee wishes to appeal the Wage Assessment must be sent to the Registrar of Appeals within 21 days of the time when you received the Wage Assessment. The notice of appeal must give the reasons why the sender wishes to appeal the decision. Such a letter should be sent to:

Registrar of Appeals
Labour Standards Division
1870 Albert Street
Regina, Saskatchewan S4P 4W1

A notice of appeal may also be sent by fax to (306) 787-4780. If you mail your notice of appeal, please send it by registered or certified mail so that you can prove the letter was delivered within the 21 day time limit.

If an employer appeals, he or she must also include the amount of the Wage Assessment or $500, whichever is less, to be held as a deposit for payment of the wage claim. If no wages are found to be owing, the deposit is returned.

9. Who hears the appeal?

An impartial adjudicator will conduct an informal hearing to give everybody a chance to tell their side of the story. The adjudicator will then make a decision as to how much, if any, wages are owing to the employee. Either side can represent themselves, or be represented by a lawyer or another person. Normally, the Labour Standards Officer will give the evidence in support of the Wage Assessment.

10. Can the Adjudicator's decision be appealed?

Yes. This decision can be appealed to the Court of Queen's Bench and the Saskatchewan Court of Appeal, but only on questions of law or jurisdiction. A lawyer is likely required at this point.

11. If the final decision says that wages are owing to the employee, can the Labour Standards Division collect wages from the employer?

The Labour Standards Division can receive money from the employer or corporate directors if they choose to pay voluntarily, and this money will be paid to the employee. If the employer refuses to pay, the Division will issue a Certificate that sets out how much money is owed to the employee. This

Certificate is filed in the Court of Queen's Bench and becomes a judgment of that Court. The employee and/or the Collection Unit, may use it to collect the wages owing. Typical collection action includes garnishing money and registering liens on assets and land.

12. Are there any other fees or charges for making a complaint?

It does not cost anything to make a complaint or talk to someone in the Labour Standards Division. If wages are found to be owing, and the parties can reach an agreement, no fees will be charged to the employer or corporate directors.

If a Wage Assessment is issued to recover the employee's wages, then an administrative fee will be charged to the employer or corporate directors named in the Wage Assessment. The fee is now 10 per cent of the Wage Assessment from a minimum of $100 to a maximum of $500. There are no additional administrative fees for appealing a Wage Assessment, but if the Wage Assessment is appealed, the administrative fee is only payable if the final decision says wages are owing. The fee will be based on the amount in the final decision.

13. Will Labour Standards accept anonymous complaints?

Employees can make an anonymous complaint if they believe *The Labour Standards Act* is not being followed. The anonymous complaint process is for those employees who would like the situation corrected but do not wish to make a formal complaint. The complaint could involve monetary or non-monetary issues. Only written complaints with supporting evidence of wrongdoing will be investigated.

This process is designed to assist those employees who are still employed. If the employee no longer works there, she or he should file a formal complaint. The Compliance and Review Unit, Labour Standards Division will work with the employer to ensure that from this point on, the provisions of the Act are followed in this workplace. Employees who want to recover unpaid wages must file a formal complaint.

14. Can I be disciplined if I file a complaint?

No employer shall discharge or threaten to discharge, take any reprisal against or in any manner discriminate against an employee because the employee has reported or proposed to report to a lawful authority any activity that is or may be unlawful, as long as the action of the employee is not vexatious.

Index

A

absence due to illness/injury 3, 15, 31-32, 36-38
- compassionate care benefit 36-38
- dismissal for illness or injury prohibited 36
- illness due to pregnancy 31-32
- job-protected leave entitlements 36
- leave to care for ill or injured immediate family 36-37
- sick pay 3

adoption leave. *See Maternity, Adoption and Parental Leaves*

annual holiday entitlements 16
- annual holidays and public holidays 17
- annual holidays cannot be part of notice period 25
- cancellation of annual holidays by employer 4, 17
- if employee does not ask for annual holiday 16
- length of annual holidays 16
- maternity leave. 30

annual holiday pay. 15-17, 22
- annual and public holiday pay on statement of earnings 22
- calculation of 15
- care providers, domestics and sitters. 44
- salary while on annual holidays 16
- time for payment of 16
- time for payment upon termination. 24
- using annual holiday pay as sick pay 15

Averaging of Hours Permit 10, 41-43

B

benefits for part-time employees 18-20
- contributions by employees 20
- eligibility for 18-19
- employees in different bargaining units 20
- employers who must offer 18
- full-time employee, definition of 18
- how employees qualify 18
- level of benefits. 19
- maintaining eligibility 18-19
- students exempt from 18

types of benefits 18
bereavement leave 4

C

care providers, domestics, home workers and sitters. 44-46
definition 44
rules governing 44-46
claiming unpaid wages, time limit 3, 47
coffee breaks 2, 7
compassionate care benefits 36-38
complaints and enforcement 47-50
administration fees 49
anonymous complaints 50
how to make a complaint 47-48
time limit for filing a claim 3, 47
coverage of *The Labour Standards Act* 1

D

"day", definition of 8
days of rest - care providers, domestics, home workers and sitters 45
days of rest, generally 6
deductions from wages 21
discharging and laying-off employees 3, 13, 16, 21, 24-28
annual holidays cannot be part of notice period 25
definition of lay-off and discharge 24
duty of employer to provide notice 24
eligibility for notice of termination 3, 24
group termination. 27-28
human rights code and termination 26
just cause. 25-26
length of notice to employee. 25, 27-28
pay in lieu of notice 24-26, 45
payment of wages upon termination 12, 13, 16, 21, 24
domestics, care providers, home workers and sitters. 9, 44-46
definitions. 44
rules governing 44-46

E

equal pay 40

F

filing claims/complaints. See *Investigating Complaints and Enforcement*

G

group termination 24, 27-28, 42
contents of notice 28
length of notice 27
permit to vary requirement for group notice 42
when notice is required 27

H

holidays. See *Public Holidays* and/or *Annual Holidays*
home workers 44

I

illness and injury. See *Absence From Work Due to Illness and Injury*
immediate family, definition 37
investigating complaints and enforcement 47-50
administration fees not required for filing a complaint 50
how to file a complaint 47
time limit for filing complaints 47
investigating complaints 48
Wage Assessment. 48

J

job protection, reservists. 4, 39
job protection, ill and injured employees 36-38

L

lay-off. See *Discharging and Laying-off Employees*
leave for military service. 4, 39

M

maternity, adoption and parental (MAP) leave. 3, 29-35
annual holidays 30
basic rules 29
benefit plans while on leave 3, 18, 30
early leave due to illness 31
eligibility for MAP leave 29
extending maternity leave beyond 18 weeks 32
delayed birth. 32
firing pregnant employees prohibited 32

length of leave 3, 29-35
modification of job duties 30
no loss of pay, etc on reinstatement 30
notice to employer before leave 30, 34
notice to employer before returning to work 30, 35
sick leave or disability benefits 31
wages while on leave 30
when leave can be taken. 31, 34
maximum work hours per week 7
meal breaks 2, 7
authorization (permit) to vary requirements for meal break. 41
military service leave 4, 39
minimum age of employment 1
minimum call-out pay . . . . . inside front cover, 2
minimum wage . . . . . inside front cover

N

notice of termination, entitlement 3, 24

O

overtime 7, 8-10, 11, 12, 15, 21, 25, 44-46
during week of a public holiday. 7, 11-12
eligibility and exclusions. 9-11
rate of pay. 8
when payable 8

P

parental leave. See *Maternity, Adoption and Parental Leaves*
payroll administration 21-23
additional records for employees who work from home 23
payroll records that must be kept 22-23, 46
reguested by Labour Standards Officer 48
retention 23
pay stubs and statements 21
permits, licences and variances 10, 41-43
applying for 42-43
Averging of Hours Permit 10, 41
length 43
types available 41-43
public holiday in Saskatchewan 11
how public holidays affect annual holidays 17
permit to observe a public holiday on another day 14

public holidays falling on Sunday 13
public holiday pay 4, 11-15, 22, 46
calculating 12
hourly paid construction employees 12
overtime in week with a public holiday 12
payment for work on a public holiday 11
payment for work on a public holiday 4, 11
special rules for certain industries 13

R

reservists - See *Leave for Military Service*
rest between periods of work (shifts) 4, 6

S

shifts, advance notice of 2
short shifting 10
sick or injured employees 3, 36-38
sick pay 3, 36
sitters 1, 44-46
definition 44
rules governing 44-46
spouse, definition 37
statutory holidays. See *public holidays*
sick or injured employees 3, 36-38

T

termination of employment. See *Discharging and Laying-off Employees*

U

uniforms, payments for 5

V

vacation. See *Annual Holidays*

W

wage assessments 49-50
appeal of 49-50
wages 2, 3, 12, 13, 16, 21-22, 24, 47
deductions from 21-22
how often employees must be paid wages 2
payout after termination 12, 13, 16, 21, 24
time limit for claiming unpaid wages 3, 47

week, definition 8
work schedules 2, 6, 41
advance notification of shifts 2, 6
domestic and home workers 44-46
permit to vary requirement to post work schedule 41
rest periods between periods of work (shifts) 6

In Regina, call: 787-2438
Call toll free: 1-800-667-1783
Visit our website: www.lrws.gov.sk.ca
Or contact your nearest Labour Standards Division Office

Estevan
P.O. Box 5000-160
123-1302 3rd St.
S4A 2V6
Tel: (306) 637-4572
Fax: (306) 637-4574

North Battleford
E101-1192 102nd St.
S9A 1E9
Tel: (306) 446-7491
Fax: (306) 446-8729

Regina
1870 Albert St.
S4P 4W1
Tel: (306) 787-2438
Fax: (306) 798-8001

Swift Current
350 Cheadle St. W.
S9H 4G3
Tel: (306) 778-8246
Fax: (306) 778-8682

Moose Jaw
222-110 Ominica St. W.
S6H 6V2
Tel: (306) 694-3737
Fax: (306) 694-3815

Prince Albert
P.O. Box 3003
McIntosh Mall, 3rd Floor
800 Central Avenue
S6V 6G1
Tel: (306) 953-2715
Fax: (306) 953-2673

Saskatoon
Sturdy Stone Building, 8th Floor
809 - 122 3rd Ave. N.
S7K 2H6
Tel: (306) 933-5042
Fax: (306) 933-5444

Yorkton
Kuziak Building, 1st Floor
72 Smith St. E.
S3N 2Y4
Tel: (306) 786-1390
Fax: (306) 786-1541

SASKATCHEWAN LABOUR STANDARDS

CONTACT
1870 Albert Street
Regina, SK S4P 4W1

Toll-Free: 1-800-667-1783
P: (306) 787-2438
F: (306) 798-8001

www.lrws.gov.sk.ca/labour-standards

Government of Saskatchewan
Ministry of Labour Relations and Workplace Safety